(1)

SINGLE BENCH

CF/1002

(4)

IN THE HIGH COURT OF JUDICATURE, CHHATISGARH AT BILASPUR.

WRIT PETITION NO. 4498 OF 2006.

PETITIONER.

NITYANAND SHARMA,
S/O LATE S. P. SHARMA,
AGED ABOUT 56 YEARS,
R/O QUARTER NO. G-10,
HASDEO BANGO COLONY,
KHARSIA,
DIST RAIGARH,
C.G. STATE.

P.R. No. 45 30/06
Presented by Shri U.R. Ghosh
dated 21/8/06

VERSUS

RESONDENT:

1) STATE OF CHHATISGARH,
THROUGH
PRINCIPAL SECRETARY,
WATER RESOURCES DEARTMENT,
D.K.S. BHAVAN,
RAIUR.
C.G. STATE.

2) CHIEF ENGINE3R
HASDEO KACHHAR DIVISION,
BILASPUR,
BILASPUR DIST.(C.G.)

3) EXECUTIVE ENGINEER,
MINIMATA BANGO CANAL DIVISION,
KHARSIA,
DIST. RAIGARH,
C.G. STATE.

21/8/06

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21/8/06
CLERK TO A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT (S) / ORDER (S) / DIRECTION (S), ETC.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(47)

आदेश पत्रक

मामला क्रमांक W.P. 4498/ **सन्** 2006

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

29-8-2006

Mr. K.R. Nair, counsel for the petitioner.

Mr. Satish Gupta, Deputy Govt. Advocate for the State/respondents, on advance copy.

Heard both the counsel.

The petitioner, who is working as Assistant Grade-II in the Department of Water Resources at Kharsia, has preferred this writ petition under Article 226/227 of the Constitution of India, praying that the respondents be directed to pay the salary and allowances from 20-4-2006 to 1-6-2006, the period he spent for moving from one office to another of the respondents on their written directions, and to quash the letter of respondent No.3 asking the petitioner to move for a leave application.

The background in which the petitioner has been forced to file this writ petition is that the petitioner, who is working as AG-II in the Office of Sub Divisional Officer, Kharsia, was transferred vide order Annexure P-1 to the Office of the Executive Engineer, Water Resources Division: Dharamjaigarh, Sub Division: Leylunga. In pursuance of the said order, the petitioner reported in the Office of Sub Divisional Officer, Leylunga on 21-4-2006 and he submitted joining report Annexure P-3. The petitioner was informed by the Sub Divisional Officer that there is no vacancy and he was asked to report to the Executive Engineer on which the petitioner reported in the Office of the Executive Engineer on 24-4-2006. The Executive Engineer also told him that there is no vacancy of AG-II in his Division, therefore, the petitioner should report to the Office of the Chief Engineer, Bilaspur. The Executive Engineer

(पीछे देखिये)

(49)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.4498/ सन् 2006

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

ascertaining the fact that whether there is vacancy where the petitioner is being transferred and thereafter, he was made to run from pillar to post and ultimately he reported as per the order of the respondent authorities to the Engineer-in-Chief who requested the Principal Secretary to cancel the transfer of the petitioner.

There was no fault on the part of the petitioner herein, rather the petitioner was forced to move from office to office. Therefore, the order of respondent No.3 asking the petitioner to move leave application for the said period is totally illegal. Such mistakes are bound to happen where transfer of low paid third class employees are being affected by the State Government without ascertaining the vacancy position. Normally, the district level or divisional level employees are being transferred by the district level officers and the Government level transfers are expected to be passed in respect of gazetted officers.

In the circumstances, the petitioner is directed to move a representation mentioning all the above facts along with a copy of the writ petition and its annexures to respondent No.2 within ten days from today and respondent No.2 shall pass order on the representation of the petitioner within a period of 30 days from the date of its receipt in an objective manner, in accordance with law. As there was no fault of the petitioner and the petitioner was forced to move from one office to another office on account of the illegal order passed by the Under Secretary without ascertaining the vacancy position, therefore, he cannot be forced to move an application for leave. If the facts as narrated in the writ petition are found to be true, then the Chief

(पीछे देखिये)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 4498/ **सन्** 2006

..... **विरुद्ध** .....

का आदेश सहित	आदेश हस्ताक्षर सहित — 4 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Engineer shall pass order regarding payment of salary and other emoluments to the petitioner and the petitioner should not be forced to move leave application for the said period.

With the directions aforesaid, the petition stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

(पीछे देखिये)